

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICHAEL JASPER,

Plaintiff,

V.

DR. THOMAS GENSLER, et al.,

Defendants.

8:09CV90

MEMORANDUM AND ORDER

This matter is before the court on Plaintiff's Motion for Leave to Dismiss and Remove Party. (Filing No. 8.) In his Motion, Plaintiff seeks leave to dismiss Defendant Douglas County Department of Corrections. (*Id.*) For good cause shown, the Motion is granted. As set forth in the court's May 15, 2009 Memorandum and Order, service of process on the remaining Defendants is now warranted.

IT IS THEREFORE ORDERED that:

1. Plaintiff's Motion for Leave to Dismiss and Remove Party (filing no. [8](#)) is granted. All claims against Defendant Douglas County Department of Corrections are dismissed without prejudice.
2. The Clerk of the court is directed to terminate Douglas County Department of Corrections as a Defendant in this matter.
3. Plaintiff's claims against the remaining Defendants may proceed and service is now warranted only as to those Defendants and claims.
4. To obtain service of process on Defendant, Plaintiff must complete and return the summons forms which the Clerk of the court will provide. The Clerk of the

court shall send THREE (3) summons forms and THREE (3) USM-285 forms to Plaintiff together with a copy of this Memorandum and Order. Plaintiff shall, as soon as possible, complete the forms and send the completed forms back to the Clerk of the court. In the absence of the forms, service of process cannot occur.

5. Upon receipt of the completed forms, the Clerk of the court will sign the summons forms, to be forwarded with a copy of the Complaint to the U.S. Marshal for service of process. The Marshal shall serve the summons and Complaint without payment of costs or fees. Service may be by certified mail pursuant to [Fed. R. Civ. P. 4](#) and Nebraska law in the discretion of the Marshal. The Clerk of the court will copy the Complaint, and Plaintiff does not need to do so.

6. [Fed. R. Civ. Pro. 4](#) requires service of a complaint on a defendant within 120 days of filing the complaint. However, because in this order Plaintiff is informed for the first time of these requirements, Plaintiff is granted, on the court's own motion, an extension of time until 120 days from the date of this order to complete service of process.

7. Plaintiff is hereby notified that failure to obtain service of process on a defendant within 120 days of the date of this order may result in dismissal of this matter without further notice as to such defendant. A defendant has twenty (20) days after receipt of the summons to answer or otherwise respond to a complaint.

8. The Clerk of the Court is directed to set a pro se case management deadline in this case with the following text: "**November 27, 2009**: Check for completion of service of summons."

9. The parties are bound by the Federal Rules of Civil Procedure and by the Local Rules of this court. Plaintiff shall keep the court informed of his current address at all times while this case is pending. Failure to do so may result in

dismissal.

July 30, 2009.

BY THE COURT:

Richard G. Kopf

United States District Judge

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